UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte DANIEL T. YOEST

Appeal 2008-0839
Application 10/644,138
Technology Center 2800

Decided: June 26, 2008

Before KENNETH W. HAIRSTON, ROBERT E. NAPPI,
and JOHN A. JEFFERY, *Administrative Patent Judges.*

NAPPI, *Administrative Patent Judge.*

DECISION ON APPEAL

This is a decision on appeal under 35 U.S.C. § 6 of the rejection of claims 1 through 23.

We reverse the Examiner's rejections of these claims.

INVENTION

The invention is directed to device for securing a power cord plug. See page 9 of Appellant's Specification. Claim 1 is representative of the invention and is reproduced below:

> 1. A power cord plug securing device, comprising:
>
> an essentially inflexible clasp block member for removably and securably retaining a power cord therein, said clasp block member comprising a trough region disposed approximately centrally therethrough, said trough region disposed along a first axis of orientation corresponding with an axis of the power cord;
>
> said trough region comprising a truncated cylindrical bottom portion and approximately vertically disposed retaining walls thereabove, said clasp block member further comprising an open region disposed approximately opposite said cylindrical bottom portion and centrally between said retaining walls, said open region forming an elongated channel to allow the power cord to traverse into and be captured within said cylindrical bottom portion;
>
> a securing strap extending proximate from a base region of said clasp block member underlying said trough region and disposed along an axis of orientation parallel to said first axis of orientation, said securing strap oriented for underlying the power cord plug when in use; and,
>
> a throughhole formed through said securing strap, said throughhole adapted to receive an electrical outlet cover plate screw for removable attachment of said device to an electrical outlet cover plate, thereby maintaining electrical engagement of electrical conductors of a plug head of the power cord with an electrical outlet.

REFERENCES

Tuttle	US 3,888,439	Jun 10, 1975
Graves	US 4,484,185	Nov. 20, 1984
Cross	US 5,211,573	May 18, 1993

Laherty	US 5,547,390	Aug. 20, 1996
Grosswendt	US 5,573,420	Nov. 12, 1996
Cook	US 6,033,251	Mar. 7, 2000

REJECTIONS AT ISSUE

Claims 1 through 4, 6, 8, 9, 18, and 19 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Graves in view of Tuttle, and Grosswendt. The Examiner's rejection is on pages 3 through 5 of the Answer.

Claim 5 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Graves in view of Tuttle, Grosswendt and Cross. The Examiner's rejection is on page 5 of the Answer.

Claim 7 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Graves in view of Tuttle, Grosswendt and Laherty. The Examiner's rejection is on page 5 of the Answer.

Claims 10 through 16, and 18 through 23 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook in view of Grosswendt. The Examiner's rejection is on pages 6 through 8 of the Answer.

Claim 17 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Cook in view of Grosswendt and Cross. The Examiner's rejection is on page 8 of the Answer.

Throughout the opinion, we make reference to the Brief (received November 27, 2006), Reply Brief (received May 11, 2007) and the Answer (mailed March 15, 2007) for the respective details thereof.

ANALYSIS

Rejection of claims 1 through 4, 6, 8, 9, 18, and 19 as being unpatentable over Graves in view of Tuttle, and Grosswendt.

Appellant contends on page 6 of the Brief that the Examiner's rejection of claim 1 is in error as Grosswendt "fails to teach an open region disposed approximately opposite a truncated cylindrical bottom portion of a trough forming an elongate channel." Appellant argues that Grosswendt does not teach the open portion as in Grosswendt's device the teeth, items 54 and 56, close the cylindrical bottom portion of the cord holder.

The Examiner responds stating "Grosswendt shows (in Fig. 1) an open region disposed opposite the truncated cylindrical bottom portion (at least when the cable is in the cylindrical bottom portion). As stated by Appellant (in the second full paragraph of page 6) the region of Grosswendt must be open in order to receive the cable." (Ans. 9).

Appellant's arguments have convinced us of error in the Examiner's rejection of claim 1. Claim 1 recites "open region disposed approximately opposite said cylindrical bottom portion and centrally between said retaining walls, said open region forming an elongated channel to allow the power cord to traverse into and be captured within said cylindrical bottom portion." Thus, the scope of the claim includes that there is an open region opposite the cylindrical bottom region. We do not find that Grosswendt teaches such an open region in the cord holder. As shown in Grosswendt's Figures 2, 5, 6, and 7, the holder has a cylindrical bottom portion (item 38), opposite this portion is two opposing teeth items 54 and 56 which separate the outer space of the cable holder from the inner space of the holder. (Col. 4, ll. 46-54).

Neither the figures nor the text of Grosswendt identify that there is an opening between these teeth. Rather, it appears that the holder is twisted, such that one tooth is pressed down and one up (i.e., viewing figure 7, one tooth pressed into the page one pulled up from the page) to allow the cable to enter the inner area 60 (e.g., in a manner similar to the application of the clip on a bag of bread). (Col. 4, ll. 10-28, col. 5, ll. 25-31). Further, we are not persuaded by the Examiner's explanation that when a cord is present there will be an opening in between the teeth. Grosswendt identifies that the inner space to hold the cord should be bigger than the diameter of the cord. (Col. 4, ll. 28-36). If the inner space is smaller than the cord, after inserting the cord, the holder will return to its original dimensions and will impinge on the cord. (Col. 4, ll. 23-27). The Examiner has not found, nor do we find, that the other references applied in rejecting claim 1, Tuttle and Graves, teach or suggest this limitation. Accordingly, we will not sustain the Examiner's rejection of claim 1, or dependent claims 2 through 4, 6, 8, and 9 similarly rejected based upon the combination of Graves, Tuttle, and Grosswendt as the Examiner has not shown that all of the claimed features are taught or suggested by the references.

Independent claim 18 is similarly rejected based upon the combination of Graves, Tuttle, and Grosswendt. On page 8 of the Brief, Appellant argues that the rejection of claim 18 is in error for the same reasons as discussed with respect to claim 1.

Appellant's arguments have persuaded us of error in the Examiner's rejection of claim 18 based upon the combination of Graves, Tuttle, and Grosswendt. Independent claim 18 similarly recites that the clasp block has an open region, and the Examiner applies the same rationale as applied to

claim 1 in finding that Grosswendt teaches such a feature. Thus, we will not sustain the Examiner's rejection of independent claim 18 and dependent claim 19, based upon the combination of Graves, Tuttle, and Grosswendt, as the Examiner has not shown that all of the claimed features are taught or suggested by the references.

Rejection of claim 5 as being unpatentable over Graves in view of Tuttle, Grosswendt and Cross, and of claim 7 as being unpatentable over Graves in view of Tuttle, Grosswendt and Laherty.

Claims 5 and 7 both ultimately depend from independent claim 1. The Examiner has not found that the additional teachings of Cross or Laherty teach or suggest the open region. Thus, we will not sustain the Examiner's rejection of claims 5 and 7 for the reasons discussed with respect to claim 1.

Rejection of claims 10 through 16, and 18 through 23 as being unpatentable over Cook in view of Grosswendt.

Appellant contends, on pages 10 and 11 of the Brief, that the Examiner's rejection of independent claim 10 is in error. Appellant argues, that as disused with respect to claim 1, Grosswendt does not teach the open region. On page 11 of the Brief, Appellant similarly argues that the rejection of independent claim 18 is in error.

Appellant's arguments have persuaded us of error in the Examiner's rejection of independent claims 10 and 18 as being unpatentable over Cook in view of Grosswendt. Similar to claims 1 and 18, independent claim 10 recites an open region opposite the cylindrical bottom portion. As discussed *supra*, we do not find that Grosswendt teaches or suggests this claimed

feature, nor do we find that Cook suggests modifying Grosswendt to include such a feature. Accordingly, we will not sustain the Examiner's rejection of independent claims 10 and 18, or claims 11 through 16, and 19 through 23 which depend upon claims 10 or 18, as being unpatentable over Cook in view of Grosswendt.

Rejection of claim 17 as being unpatentable over Cook in view of Grosswendt and Cross.

Claim 17 ultimately depends upon claim 10. The Examiner has not found that the additional teachings of Cross teach or suggest the open region. Thus, we will not sustain the Examiner's rejection of claim 17 for the reasons discussed with respect to claim 10.

ORDER

The decision of the Examiner is reversed.

REVERSED

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